IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8347 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DESINGBHAI BHIKHLABHAI RATHWA
Versus
STATE OF GUJARAT & ORS

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Appearance :
MR NK MAJMUDAR for Petitioner:1
MR APURVA DAVE AGP for Respondent:1
RULE SERVED for Respondents:2-3.

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 12/12/2007

ORAL JUDGMENT

1. Heard Shri N K Majmudar learned advocate for the petitioner and learned AGP Shri Apurva Dave for the

respondents State.

2. By way of the present petition, the petitioner-detenu has challenged the legality and validity of the order of detention dated 23.02.2007 passed by the District Magistrate, Vadodara in exercise of powers under the provisions of the Gujarat Prevention of Anti-social Activities Act, 1985 (for short, “the Act”).

3. The petitioner-detenu is branded as a “Bootlegger” within the meaning of Section 2(b) of the Act as he was found involved in offence under the Bombay Prohibition Act by engaging himself in the illegal sale and distribution of foreign made liquor. While passing the order of detention the detaining authority has mainly considered the fact of registration of a single offence punishable under Sections 66(1)(b), 65AE, 81 and 116(1) of Bombay Prohibition Act registered as CR No.2/2007 and the statement of the accused in prohibition cases.

4. The learned advocate for the petitioner-detenu has assailed the order under challenge on various grounds. However, this petition is capable of being

disposed of on the sole ground that the order of detention is based on registration of a solitary incident. Reference in this connection may be had to the decision rendered in the case of **SOHANLAL SURAJARAM VISNOY VS STATE OF GUJARAT** reported in **2004(2) GLR 1051.**

5. The present case can at the most be said to be involving law and order problem for which the petitioner can be adequately punished. It is therefore difficult for this Court to accept that the petitioner has been rightly detained as the activities of the petitioner can at the most be termed as affecting law and order. In short, no further discussion on the other points raised in this petition is required as in the opinion of this Court, the order of detention is not sustainable in the eye of law.

6. For the reasons recorded in the judgment dictated today, the petition is allowed. The impugned order of detention dated 23.02.2007 passed by the District Magistrate, Vadodara is quashed and set aside. The detenu Desingbhai Bhikhlabhai Rathwa is ordered to be set at liberty forthwith if not required in

connection with any other case by any other authority. Rule is made absolute accordingly. Direct service is permitted.

(***M.D.SHAH, J.)***

Amit/-